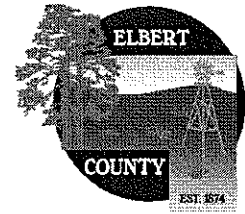




COUNTY OF ELBERT

COMMUNITY & DEVELOPMENT SERVICES OFFICE

P.O. BOX 7
215 COMANCHE STREET
KIOWA, COLORADO 80117
303-621-3136 FAX: 303-621-3165



January 4, 2012

TO Whom It May Concern:

Re: DRAFT of the Proposed Oil & Gas Regulations and Permitting Process, a
Proposed Addition to the Elbert County Zoning Regulations.

The attached DRAFT of the proposed Oil & Gas Regulations and Permitting Process, a proposed amendment to the Elbert County Zoning Regulations, will be presented to the Elbert County Planning Commission on January 26th, at 7:00 P.M., in the Exhibit Hall Building at the Elbert County Fairgrounds. The Board of County Commissioners is scheduled to hear the proposed amendment at their February 15th public hearing, which is to be held at 9:00 A.M., in the Exhibit Hall Building.

This DRAFT has been posted on the County website to allow time for review of the proposed amendment. Comments regarding the DRAFT may be sent to: richard.miller@elbertcounty-co.gov, or may be discussed during the public comment period of the scheduled public hearings.

Your comments are welcome and appreciated.

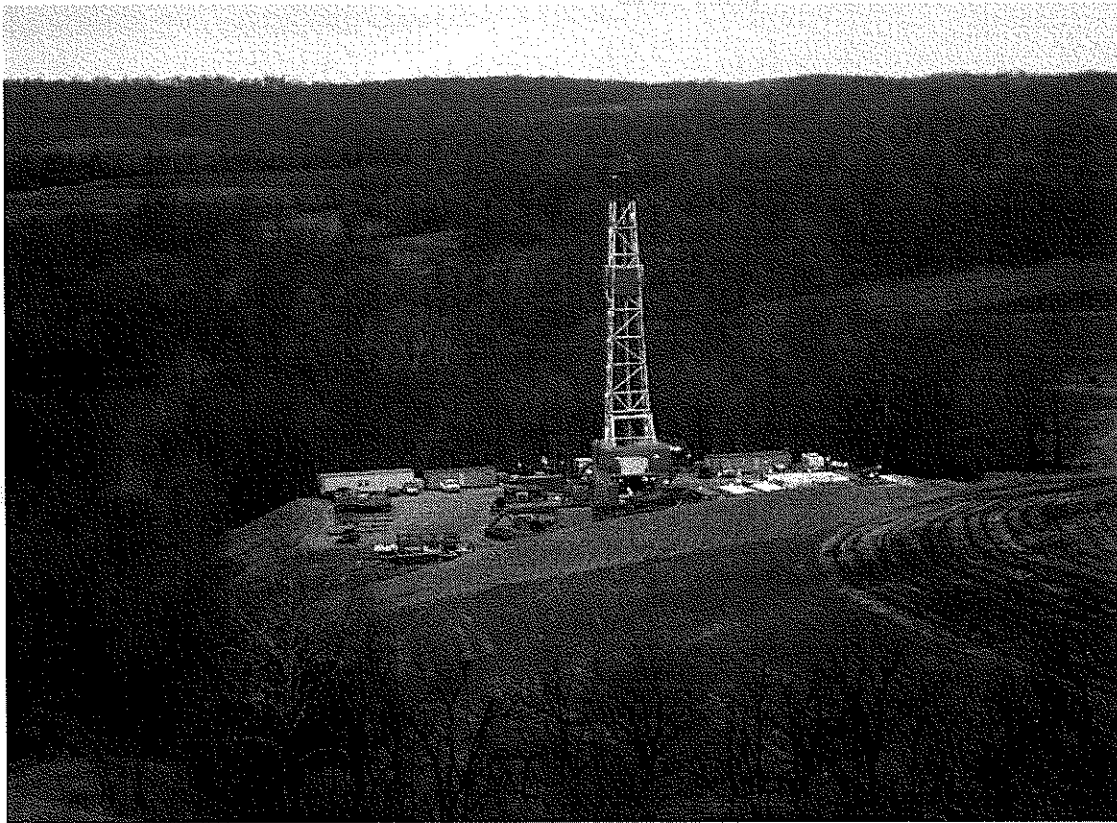
Sincerely,

Richard L. Miller

Richard L. Miller, AICP
Director – Community & Development Services

DRAFT
OIL & GAS REGULATIONS
AND
PERMITTING PROCESS

A Proposed Addition to the Elbert County Zoning Regulations
(Part II, Section 26 of the Elbert County Zoning Regulations)



Version – December 27, 2011

OIL & GAS REGULATIONS

AND

PERMITTING PROCESS

A Proposed Addition to the Elbert County Zoning Regulations

(Part II, Section 26 of the Elbert County Zoning Regulations)

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PART II, SECTION 26 OIL AND GAS REGULATIONS

(A Proposed Addition to the *Elbert County Zoning Regulations*)

Section 26.1: AUTHORITY AND ENFORCEMENT

A. AUTHORITY; CITATION

These Regulations are authorized by C.R.S. §§ 29-20-101 et seq., 34-60-101 et seq., and 30-28-101 et seq. They may be cited as these Regulations.

B. PURPOSE

This section of the *Elbert County Zoning Regulations* is enacted to protect and promote the health, safety, values, convenience, order, prosperity and general welfare of the present and future residents of Elbert County. It is Elbert County's intent by enacting this section to facilitate the development of oil and gas resources within the unincorporated area of Elbert County, while mitigating potential conflicts between existing, as well as planned land uses. It is recognized that under state law the surface and mineral estates are separate and distinct interests in land and that one may be severed from the other.

Owners of sub-surface mineral interests have certain legal rights and privileges, including the right to use that part of the surface estate reasonably required to extract and develop their sub-surface mineral interests, subject to compliance with the provisions of this section and any other applicable statutory and regulatory requirements.

Similarly, owners of the surface estate have certain legal rights and privileges, including the right to have the mineral estate developed in a reasonable manner and to have adverse land use impacts upon their property, associated with the development of the mineral estate, mitigated through compliance with these Regulations. Should it be established by competent evidence that a proposed minor or major Oil and Gas Facility cannot be operated in compliance with these Regulations, County land use approval for such a facility shall be denied, subject to the provisions of Section 26.2.H (Waiver) and Section 26.2.I (Operational Conflicts Waiver).

C. APPLICABILITY

These Regulations shall apply to lands all within the unincorporated area of Elbert County. It shall be unlawful to construct, install, or cause to be

constructed or installed (including site grading), any Oil and Gas Facility within the unincorporated portions of Elbert County unless approval has been granted pursuant to these Regulations by the Director of Community & Development Services and/or the Board of County Commissioners. Such approval shall be recognized through the issuance of an "Oil and Gas Development Permit", which is to be posted at the Oil & Gas Facility.

These Regulations, upon adoption by the Board of County Commissioners, shall replace and supersede any reference to "oil and gas drilling operations" referenced in the *Elbert County Zoning Regulations* (May 13, 2010 version, recorded at Reception No. 512064, Book 721, Page 424), for the individual zone districts or as referenced in "Uses Permitted by Special Review", *Part II, Section 18*. These Oil and Gas Regulations are to be added as *Part II, Section 26 of the Elbert County Zoning Regulations*, with the "Definitions" section (currently *Part II, Section 26*), becoming *Part II, Section 27 of the Elbert County Zoning Regulations*.

D. EFFECTIVE DATE

These Regulations shall become effective on the date specified in the adopting resolution of the Board of County Commissioners in accordance with State law. These Regulations shall apply to all Oil and Gas Facilities for which construction has not commenced or a building permit has not been issued as of the effective date of these Regulations.

E. NONCONFORMING USES

1. An Oil & Gas Facility use which was in place as of the effective date of these Regulations shall be allowed to continue so long as the use is not abandoned for an uninterrupted period of eighteen (18) months or more. For wells, abandonment shall mean plugging and abandonment of a well, temporary abandonment of a well, or shut-in of a well, as defined by the Colorado Oil and Gas Conservation Commission.
2. Normal or routine maintenance of a facility containing a non-conforming use shall be allowed. Normal or routine maintenance of a facility shall be distinguished from a facility expansion based upon any permanent increase in impacts of a facility. A permanent increase is an increase in the noise associated with the facility, the visual impact of the facility, or the surface area disturbance that lasts longer than six (6) months and is beyond the surface area originally impacted by the facility, and such increases result in a violation of a performance

standard. Expansion of a non-conforming facility shall not be allowed and shall require approval as a Minor or Major Oil & Gas Facility, as appropriate.

3. Non-conforming Oil & Gas Facilities that are either abandoned or proposed to be expanded shall be treated as new Oil & Gas Facilities and be required to follow all procedures and meet all applicable standards for such uses as provided in these Regulations.
4. Nothing herein shall be construed as a regulatory requirement to close or abandon an existing Oil & Gas Facility.

F. RIGHT TO ENTER

The Operator of an approved Oil & Gas Facility shall provide the telephone number and e-mail address of a contact person who may be reached twenty-four (24) hours a day, 365 days per year, for purposes of being notified of any County inspection of the site. Any site on which drilling or other Oil and Gas Operations are being conducted under an approved Oil and Gas Development Permit may be inspected by the County or its consultants any time, to ensure compliance with the requirements of the approved Oil and Gas Development Permit, Facility Improvement Plan, Development Standards, and any agreements between Elbert County and the Applicant, provided one (1) hour notice is given to the contact person at the telephone number and/or e-mail address supplied by the Applicant. Calling the number (or leaving a message on an available answering machine or voice mail service at the number) or leaving an e-mail message, at least one (1) hour in advance of the proposed inspection shall constitute sufficient prior notice if the contact person does not answer or respond. By accepting an approved Oil and Gas Development Permit, the Applicant grants consent for Elbert County officials and its agents and/or any necessary emergency personnel to enter the site without notice to investigate potential hazardous or emergency situations, to investigate compliance with conditions specified in the Oil and Gas Development Permit, or if a spill or other environmental situation has occurred on the site. For the purpose of implementing and enforcing this Subsection F, the Applicant shall provide the County with an "Elbert County Right to Enter" form (attached as **Appendix A**) (executed by the surface owner and submitted with the Oil and Gas Development Permit Application), which specifies that County personnel and its consultants, may need to enter the site at any time during the review of an Oil and Gas Facility application and thereafter upon reasonable notification to the Operator. If entry is denied, the County shall have the right to discontinue the processing of

any pending application, to halt the effectiveness of an issued permit, or to obtain an order from a court of competent jurisdiction to obtain entry.

G.: FALSE OR INACCURATE INFORMATION

The Board may revoke approval of an Oil and Gas Development Permit if false or inaccurate information was provided during the permitting process. Prior to such action, the Applicant and the Director shall be provided with an opportunity to be heard at the public meeting before the Board of County Commissioners, at least ten (10) days after providing written notice to the Applicant. If the Board then determines that the Applicant provided information or documentation upon which approval was based, which the Applicant, its authorized representatives, and employees knew, or reasonably should have known, was false, misleading, deceptive, or inaccurate, the Board may revoke the Permit or impose additional conditions.

H. VIOLATIONS; ENFORCEMENT; CIVIL ACTION

In the event any building or structure is or is proposed to be erected, constructed, re-constructed, altered or used, or any land is or is proposed to be used, in violation of any provision of these Regulations and prior to an "Oil and Gas Development Permit" being issued, the County Attorney, in addition to the other remedies provided by law, ordinance or resolution, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, re-construction, alteration, or use, or upon approval of the Board of County Commissioners, may refer the matter to the District Attorney for prosecution of violation of state law.

I. ELBERT COUNTY OIL & GAS ADVISORY BOARD (ECOGAB)

The Board shall form the Elbert County Oil and Gas Advisory Board (ECOGAB) to provide a forum for the oil and gas industry, the public, impacted landowners, and County government to prevent or minimize conflict associated with oil and gas development through positive and proactive communication and actions that encourage responsible and balanced development of oil and gas resources within Elbert County. ECOGAB shall have two (2) representatives from citizens, two (2) representatives from the oil and gas industry, and one (1) County staff member to hear comments and complaints from County residents regarding oil and gas activity. ECOGAB shall investigate citizen complaints and attempt to resolve complaints. If a solution cannot be agreed upon, the matter will be forwarded to the Board of County Commissioners and/or Colorado Oil & Gas Conservation Commission other regulatory authorities. If a solution can be

agreed upon, ECOGAB will report their findings and solution to the Board of County Commissioners for appropriate action. Membership to the ECOGAB shall be appointed by the Board of County Commissioners.

REF

Section 26.2: REVIEW PROCEDURES

A. MINOR OIL & GAS FACILITY

1. Defined

Minor Oil & Gas Facilities include: an individual well pad built with one or more wells and operated to produce crude oil or natural gas associated products or production including, associated equipment required for such production; intermediate lines which extend from the wellhead, gathering lines, and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations, and valve boxes; temporary storage and construction staging yards that are in place for less than six (6) months. Land use applications for a proposed Minor Oil & Gas Facility shall be processed administratively by Community & Development Services without a public hearing before the Elbert County Planning Commission or the Board of County Commissioners.

Review Process for Minor Oil & Gas Facilities

- a. Pre-Application Meeting. Prior to submittal of the application, a Pre-Application Meeting shall be required between the Applicant and County staff to discuss the procedures and submittal requirements.
- b. Application Form. The application submittal shall be made to Community & Development Services and shall include a completed and signed "Elbert County Oil & Gas Facilities Development Permit Application Form" (**Appendix B**), and the submittal requirements identified in the "Application Submittal Requirements for an Oil and Gas Development Permit," at Section 26.3.
- c. Notice to Property Owners. The Applicant shall identify the owners of record of all real property within one (1) mile of the property subject to the Application and shall mail all such owners a "Notice of Application for Minor Oil & Gas Facility," in the form attached as **Appendix C**, via certified mail. The Applicant shall submit a list of the property owners so notified, accompanied with evidence of mailing, as a part of the application package.

d. Administrative Review

(1) Within fifteen (15) Elbert County business days (Monday through Thursday) of the date that the application is date-stamped and accepted, Community & Development Services shall review the application and notify the Applicant in writing via U.S. Mail or electronic mail, if the application submittal requirements are complete and acceptable to begin the referral process. This review will include a field inspection of the proposed site by Community & Development Services staff and other County agencies as appropriate.

(2) Should Community & Development Services determine that the application, as submitted, is not complete, written notice of the specific deficiencies shall be provided to the Applicant within fifteen (15) Elbert County business days (Monday through Thursday) of the initial submittal. No further action, including approval, shall be taken on an application determined to be incomplete, until the specified deficiencies have been corrected.

(3) Review of a complete application and approval or denial will typically occur within twenty-one (21) Elbert County business days (Monday through Thursday). More or less time may be required for review depending on workload or requests for additional information made to the Applicant. If a permit is not approved within twenty-one (21) Elbert County business days (Monday through Thursday), Community & Development Services will contact the Applicant with an estimate of when the review of the application will be completed.

e. Review Criteria; Approval The information in the application and any accompanying documentation, shall demonstrate that the proposed Minor Oil & Gas Facility meets the requirements of Section 26.2.C: Review Criteria for an Oil & Gas Development Permit. If the Facility Improvement Agreement has been fully executed, all fees have been paid, and all necessary security instruments are provided; the Director shall issue an approval of

the Oil & Gas Development Permit for the proposed Minor Oil & Gas Facility, which approval may contain conditions necessary to ensure compliance of the facility with these Regulations. The Facility Improvement Plan Exhibit and any development agreements shall be recorded once the required recording fees have been paid. Notice of an approval shall be posted in the Oil & Gas Permitting portion of the Community & Development Services website.

- f. Denial If the Director determines the proposed Minor Oil & Gas Facility does not comply with and/or will not or cannot be constructed and operated in compliance with the requirements of Section 26.2.C, then he/she shall issue a written denial of the application, specifically stating the reason for its denial.
- g. Notice of Action - Final Status shall be mailed to the Applicant and the surrounding landowners who received letter notice of the application, as described herein. The Notice of Action - Final Status shall recite whether the application has been approved, approved with conditions or denied, and shall be mailed via first class mail within three (3) Elbert County business days (Monday through Thursday) of final determination.
- h. Appeals; Notice of Action - Final Status for a Minor Oil & Gas Facility may be appealed to the Board of County Commissioners. Any appeal shall be submitted, in writing, to Community & Development Services, Attention: Director, within twenty-one (21) Elbert County business days (Monday through Thursday) from the date on the Notice of Action - Final Status. The decision shall become final upon the expiration of the time to file an appeal.
- i. Appeal Procedure All appeals shall be in writing and specifically state the reason(s) of the appeal. The Board of County Commissioners shall consider and decide the appeal at its next regularly scheduled or special public meeting following fourteen (14) days written notice to the Applicant and the public pursuant to Section 26.2.B.2.j. Both the Applicant and the Director shall be notified and given an opportunity to present evidence at the hearing. The Board has the authority to reverse or uphold the decision of the Director, in whole or in part. Should the Applicant

provide competent evidence that either: (1) the proposed Minor Oil & Gas Facility complies with all applicable requirements of this section; or (2) the applicant has demonstrated hardship which is: (a) unique to the site, (b) not self-imposed, (c) economically significant, and (d) that approval of the application will not detrimentally affect adjacent properties or public safety, the Board may reverse the Director's decision and direct the application be approved, with or without conditions. The decision of the Board is a final decision subject to appeal to the district court pursuant to C.R.C.P. 106.

- j. Final County Action Denial of an application for a Minor Oil & Gas Facility by the Director, or if appealed to the Board of County Commissioners, by that Board, shall constitute final action from the County and the same, or substantially the same application for that site may not be re-filed for one year from the date of denial.

B. MAJOR OIL & GAS FACILITY

1. Defined

Major Oil & Gas Facilities include: centralized facilities; water injection disposal sites, centralized water transfer stations, centralized water pump stations, and associated facilities serving multiple well pads; compressor stations; any permanent equipment facility or structure related to the production of oil and gas that contains an internal combustion engine; with a cumulative horsepower (de-rated for elevation), of 200 brake horse power (bhp) or greater; pipelines to central collection facilities; any Oil and Gas Facility not meeting the definition of Minor Oil & Gas Facility; storage and construction staging yards in place for longer than six (6) months. Applications for approval of Major Oil & Gas Facilities require public hearings before the Elbert County Planning Commission and the Board of County Commissioners.

2. Review Process for Major Oil & Gas Facilities

- a. Pre-Application Meeting Prior to submittal of the application for a Major Oil & Gas Facility, a Pre-Application Meeting shall be required with staff to discuss the procedures and submittal requirements.

- b. Application Form The application submittal shall be made to Community & Development Services and shall include a completed and signed "Elbert County Oil & Gas Facilities Development Permit Application Form" (**Appendix B**) and the submittal requirements identified in the "Application Submittal Requirements for an Oil and Gas Development Permit," at Section 26.3.
- c. Application Contents The application shall include three (3) copies of the submittal requirements identified in Section 26.3.
- d. Staff Review for Completeness Within fifteen (15) Elbert County business days (Monday through Thursday), of the date that the application is date-stamped and accepted, Community & Development Services shall review the application for completeness. If the application is deemed complete, Community & Development Services will commence project review pursuant to the applicable standards and requirements. If the application is incomplete, the Applicant will be notified, in writing via mail or electronic mail, of the deficiency and the application shall be withdrawn from the review process until the required information is submitted.
- e. Referral Agencies Once the submittal is determined complete, Community & Development Services shall notify the Applicant, in writing via US Mail or electronic mail, of the number of copies of the submittal information needed to distribute to referral agencies. Mailing addresses of the referral agencies shall be provided to the Applicant. The Applicant shall provide referral packets to the staff planner in unsealed manila envelopes, with adequate first-class postage (not affixed) and a return address, addressed to the appropriate referral agency with submittal information properly folded and compiled. Staff shall include a referral response sheet and distribute the referral packets to referral agencies.
- f. Referral Agency Comments If referral agencies elect to comment, they shall comment within twenty-one (21) Elbert County business days (Monday through Thursday), of the date the referral packets were mailed. After the twenty-one (21) Elbert County business days (Monday through Thursday), any

referral agency comments received will be accepted for informational purposes only and provided to the Applicant.

(1) Additional referral periods may be required based upon the extent of design changes initiated through the initial referral period. The length of any additional referral periods shall be determined by the staff planner.

(2) All referral agency comments shall be provided by staff to the Applicant upon receipt from the referral agency. The Applicant shall address the comments of all referral agencies received within twenty-one (21) Elbert County business days (Monday through Thursday) after receipt of the same by the Applicant, by identifying, in writing, the extent to which the project has been revised in response to the comments. The Applicant is strongly encouraged to provide a written response to timely comments of all advisory agencies, or the process may be delayed.

(3) The Community & Development Services staff may, but is not required to, submit comments on the application as an additional referral agency, or may provide its comments to the Applicant after the close of the referral period(s).

g. Revised Application Subsequent to the referral period(s), the Applicant shall submit revised application materials which satisfactorily address issues raised during the referral period. The re-submittal shall include:

(1) A revised Facility Improvement Plan (if necessary).

(2) A written response to County and agency referral comments.

(3) Draft Facility Improvement Agreement and related exhibits, as required (template available from Community & Development Services).

h. Staff Recommendation Within seven (7) Elbert County business days (Monday through Thursday) of receipt of the

revised Major Oil & Gas Facility Improvement Plan and the Applicant's written response to the referral comments, the staff planner shall contact the Applicant, in writing, as to the status of its re-submittal. Community & Development Services may recommend approval, approval with conditions, or denial based on an assessment of the application against the Review Criteria, Section 26.2.C.

- i. Public Hearings All applications for Major Oil & Gas Facilities shall be scheduled for public hearings before the Planning Commission and the Board of County Commissioners Board in accordance with the provisions of this section.
- j. Notice of Hearings The Applicant shall be responsible for publishing notice of the public hearings before the Planning Commission and Board of County Commissioners in a local paper of general circulation at least fourteen (14) calendar days prior to the scheduled hearing dates as specified by Community & Development Services.

(1) The staff planner shall place a notice of both the Planning Commission and Board of County Commissioner's public hearings on the County's website at least fourteen (14) calendar days prior to the scheduled hearing dates. The website shall be updated if the hearing dates change. Errors in the website hearing notice shall not negatively impact the determination of public notice compliance set forth herein.

(2) At least fourteen (14) calendar days prior to each of the scheduled hearing dates, the Applicant shall mail a written notice of the hearing by certified mail to the owners of any land abutting or located within 1,320 feet of the pad area as such address is shown in the records of the Elbert County Assessor's Office. The notice shall be in the form attached as **Appendix D**: "Public Hearing Notice Form." At least fourteen (14) calendar days prior to the public hearing, the Applicant shall provide the following to Community & Development Services:

- (a.) Alphabetical list of the landowners;
- (b.) Map showing their relationship to the site;

- (c.) A copy of the notice sent to the landowners; and
- (d.) A certificate of mailing.

(3) In the event the Applicant fails to mail a notice to an abutting landowner or otherwise fails to comply with the written notice required in this Section, the landowner who did not receive such complying notice may waive such notice by appearing at the hearing or by submitting a written waiver to the Director prior to the hearing.

(4) At least fourteen (14) days prior to the Planning Commission public hearing, the Applicant is responsible for preparing and posting the "Notice of Public Hearing" sign(s) on the subject property and locating the sign(s) on the property in a location(s) as specified by Community & Development Services.

(5) Notice shall be sent by Community & Development Services at the Applicant's expense to any other person, agency or organization that has filed a written request with the Director to receive notice of a Major Oil & Gas Facility undergoing public review; such notice will be sent.

k. Planning Commission Review At the public hearing, the Planning Commission shall evaluate the Major Oil & Gas Facility request, staff report, referral agency comments, Applicant responses, and public comment and testimony, and make a recommendation to the Board of County Commissioners to approve, approve with conditions, continue, table for further study, or deny the Oil & Gas Development Permit request. The Planning Commission's decision shall be based on evidence presented, and the degree of compliance by the application with the Review Criteria of Section 26.2.C.

l. Board of County Commissioners Public Hearing Following action by the Planning Commission, staff shall schedule a public hearing before the Board of County Commissioners, notify the Applicant, in writing, of the hearing date and time, and prepare a staff report for the Board of County Commissioners. The hearing shall be scheduled for the earliest available date, taking into consideration the public notice requirements of this Section,

but no later than 120 calendar days after the final Planning Commission hearing.

m. Board of County Commissioners' Review & Decision

At the public hearing, the Board of County Commissioners shall evaluate the Oil & Gas Development Permit request, staff report, referral agency comments, Applicant responses, the Planning Commission recommendation, and public comment and testimony, and shall approve, approve with conditions, continue, table for further study, remand to the Planning Commission, or deny the Oil & Gas Development Permit Application. The Board of County Commissioners' action shall be based on evidence presented and the degree of compliance with the Review Criteria of Section 26.2.C. If the Board of County Commissioners approves the Oil & Gas Development Permit and all conditions of approval imposed by the Board have been satisfied, the Facility Improvement Agreement has been fully executed, security instruments are provided, and all fees have been paid; the Facility Improvement Plan Exhibit and any performance security agreements shall be recorded.

- n. Notice of Action - Final Status shall be mailed to the Applicant and the surrounding landowners who received letter notice of the application, as described herein. The Notice of Action - Final Status shall recite whether the application has been approved, approved with conditions or denied, and shall be mailed via first class mail within three (3) Elbert County business days (Monday through Thursday) of final determination.

C. REVIEW CRITERIA

1. An Oil & Gas Development Permit shall only be approved and issued for an Oil and Gas Facility if the proposed application demonstrates compliance with the following:
 - a. Suitability – The suitability of the location of the proposed facility given its size, design, and operational characteristics. Factors to be considered include: noise levels, impacts upon air and water quality, vibration and odor levels, fire protection and access requirements, visual impacts, wildlife impacts, and public safety.

These factors will be evaluated in accordance with applicable State, County, and Federal standards.

- b. Adequacy of existing roads and access to the site - Factors for consideration include: existing and proposed road alignment, intersections, condition, structure and sight distances; traffic volumes and types of equipment; dust control; and existing road uses.
- c. Site Characteristics - The overall characteristics of the site. Factors for consideration include: topography, natural hazards (landslides, flooding, wildfire, etc.), cultural and historical uses on the proposed site, and current resource values (open space corridor and wildlife habitat).
- d. Mitigation of Impacts - The proposed Minor Oil & Gas Facility can mitigate impacts through other acceptable means that meet the intent of these Regulations, and shall be constructed and operated in compliance with all applicable standards of these Regulations.
- e. Compliance with these Regulations – The application must demonstrate compliance with all applicable requirements and standards of these Regulations.

D. POST-DENIAL APPLICATION

If denied by the Board of County Commissioners a re-submittal of the same, or substantially same, application shall not be accepted within one (1) year from the date of denial by the Board of County Commissioners, or in the event of litigation challenging the denial, from the date of the entry of the final judgment. However, if evidence is presented to the Board of County Commissioners showing a substantial change in conditions or circumstances, the Board of County Commissioners may reconsider application. A new application and processing fee shall be required.

E. ANNUAL COMPLIANCE REVIEW

Each approved Major and Minor Oil & Gas Facility is subject to annual review, or more frequently if the Board of County Commissioners deems appropriate, to ensure compliance with the approval standards and conditions of approval. In the event an approved Major Oil & Gas Facility is found to be out of compliance with the approved standards and all conditions of approval, Community & Development Services shall

notify the owner/operator of such non-compliance in writing detailing such non-compliance and shall request that the facility be immediately brought into compliance with the approved standards and all conditions of approval or be subject to revocation of the operating permit for the facility.

F. PERMIT MODIFICATIONS

Where an Oil and Gas Facility has been approved and the Applicant desires to modify the subject facility by changing previously approved permanent equipment, adding new permanent equipment, site layout, new grading activities, operating plan, etc., an application to modify the original application shall be required. Changes to permanent equipment include, but are not limited to, changes of existing equipment or operations that result in greater impacts. Permit modifications shall be processed as either Minor or Major Modifications, as follows:

1. Minor Permit Modification

a. Minor permit modifications include the following:

- (1) Relocation of individual facilities and equipment within the pad area of an approved Oil & Gas Facility.
- (2) Expansion of an approved Minor Oil & Gas Facility of no more than ten percent (10%) of the relevant facility component or area.
- (3) When in the reasonable judgment of the Director of Community & Development Services, the proposed modification is equivalent to a request for a new Minor Oil & Gas Facility.

b. Applicant shall submit a narrative, Facility Improvement Plan, and appropriate fees as established by the Board. Community & Development Services shall have fifteen (15) Elbert County business days (Monday through Thursday) to review the proposed modifications. The Director may waive submission requirements to the extent the required materials are already on file.

c. The Director shall review and issue a written decision on the Application. The Application may be granted administrative approval with or without conditions, if it complies with the

approval standards. If the Application is denied, the decision may be appealed, if at all, within fourteen (14) days in the same manner as for appeals of the Director's decision on Minor Oil & Gas Facilities at Section 26.2.A.2.

2. Major Permit Modification When in the reasonable judgment of the Director of Community & Development Services, a proposed modification is equivalent to a request for a new Major Oil & Gas Facility, the proposal shall be processed pursuant to the complete process for Major Oil & Gas Facilities at Section 26.2.B, including all public review and submission requirements. The Director may waive submission materials which are already on file.
3. Notice of Operations As a condition of any approved modifications, the Applicant shall provide written notice to the Director at least five (5) Elbert County business days (Monday through Thursday) prior to the commencement of any on-site work associated with the permitted modification.

G. PERMIT EXPIRATION; EXTENSIONS

1. Approval of a Minor or Major Oil & Gas Facility, or an approved modification thereof, shall expire if construction of the facility or the approved modification has not commenced within one (1) year of final County approval.
2. Approved facilities may be granted one (1) Facility Improvement Plan extension for up to one (1) year provided that a written request for extension is submitted to the Director before the approved Facility Improvement Plan expires. Requests for extensions shall be processed administratively upon payment of an extension fee, and shall not be submitted for County review more than thirty (30) calendar days prior to the original permit's expiration date.

H. WAIVERS

1. Authorized Waivers to these Regulations may be requested by the Applicant or the Director. All applications where a waiver is requested shall be processed in accordance with the standards and procedures outlined in this Section which is the exclusive procedure for requesting a waiver of requirements, other than Section 26.4 M. (waiver of maximum number of well pads in 640 acres, and Section 26.2.I. (Operational Conflicts Waiver).

2. Review Criteria In considering a waiver request, the Director or the Board, as appropriate, shall apply the following criteria:

- a. Whether the requirement requested to be waived is unnecessary in light of the physical and topographical characteristics of the site.
- b. The physical equipment to be located on, or the operational characteristics of the site.
- c. Duration of use of the facility.
- d. Proximity of occupied structures to the facility.
- e. Ownership status of adjacent and affected land.
- f. Construction of adequate infrastructure to serve the project.
- g. Planned replacement or upgrading of facility equipment.
- h. Other considerations pertinent to the particular site.

3. Review Procedure:

- a. Waivers requested with respect to a Minor Oil & Gas Facility shall be received and decided by the Director, either as a part of the initial application for approval of the Minor Oil & Gas Facility, or in connection with a request for modification thereof under Section 26.2.I.
- b. Waivers with respect to a Major Oil & Gas Facility shall be received and decided by the Board of County Commissioners, either as a part of the initial application for approval of the Major Oil & Gas Facility or in connection with a request for modification thereof under Section 26.2.F.
- c. The Director or the Board, as appropriate, shall grant, grant with conditions or deny the waiver as a part of his, her, or its decision on the application (for a Minor or Major Oil & Gas Facility or Modification thereof) of which the waiver request is a part.
- d. If the Director or the Board of County Commissioners finds that compliance with these Regulations is impractical, a waiver may

be granted permanently or for a defined time period, upon completion of which the application shall receive a review by the Director or the Board, as appropriate, in a noticed public hearing. Following the hearing, the Director or the Board of County Commissioners may:

- (1) Further extend the waiver.
- (2) Require the facility to be brought into compliance with the requirements.
- (3) Revoke the waiver approval.

I. OPERATIONAL CONFLICTS WAIVER

A waiver to these Regulations shall be granted if or when the application of the requirements of these Regulations actually conflict in operation with the rules of the Oil and Gas Conservation Act or implementing regulations.

1. All applications where a waiver due to operational conflicts is requested shall be processed as a Major Oil & Gas Facility and heard in a noticed public hearing by the Board of County Commissioners. The Applicant shall have the burden of pleading and proving an actual, material, irreconcilable operational conflict between the requirements of this section and those of the Colorado Oil & Gas Conservation Commission in the context of a specific application.
2. For purposes of this Section, an operational conflict exists where an actual application of a County condition of approval or regulation is contrary to State statutory or regulatory requirements and where such conflict would materially impede or destroy the Colorado Oil & Gas Conservation Commission's goals of fostering the responsible, balanced development, production, and utilization of the oil and gas resources in the State of Colorado in a manner consistent with protection of public health, safety, and welfare, and protection of the environment and wildlife resources.
3. County requirements in areas regulated by the Colorado Oil & Gas Conservation Commission that fall within County land use powers necessary to protect the public's health, safety, and welfare pursuant to the application presented, and which do not impose unreasonable

burdens on the Applicant, or materially impede the State's goals, shall be presumed not to present an operational conflict.

4. If the Board of County Commissioners determines that compliance with the requirements of these Regulations results in an operational conflict with State statutes or regulations, a waiver to this section shall be granted, in whole or in part, but only to the extent necessary to remedy the operational conflict. The Board of County Commissioners may mitigate any impacts by conditioning the approval of a waiver as necessary to protect the public health, safety, and welfare. Any such condition shall be such that the condition itself does not conflict with the requirements of the Colorado Oil & Gas Conservation Commission.
5. If the Applicant, or any person entitled to receive notice of the original application for the Oil & Gas Facility, wishes to seek judicial review of a final Board of County Commissioner's decision on the operational conflict waiver request, appeal to the district court shall be pursuant to C.R.C.P. Rule 106(a)4.

J. WITHDRAWAL OF AN APPLICATION

A request to withdraw an application shall be submitted, in writing, to Community & Development Services. Withdrawal of the application shall preclude reactivation. There will be no refund of application fees when an application is withdrawn. The submittal of a new application and processing fee shall be required in order to pursue the proposed facility.

K. PERMIT REVOCATION

In the event any Oil & Gas Facility is not brought into compliance with its approved permit standards and conditions, the County may schedule a hearing to consider revocation of the permit. The hearing shall be held by the Director of Community & Development Services (for Minor Oil & Gas Facilities) or by the Board of County Commissioners (for Major Oil & Gas Facilities). Notice shall be given to other property owners and the permit holder in the same manner as for the original permit review and approval. At the conclusion of the hearing, the Director or the Board, as appropriate, shall determine whether: (1) the failure of compliance is so serious as to require revocation of the permit and resolve the same; or (2) the permit holder may be given the opportunity to bring the facility into compliance with these Regulations and any existing and new conditions of approval. The action of the Director or the Board as appropriate

shall be memorialized in writing and shall be the final decision of the County, subject to review by the district court.

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SECTION 26.3 APPLICATION SUBMITTAL REQUIREMENTS

A. GENERAL REQUIREMENTS

Once the Applicant has submitted three (3) copies of the application and Community & Development Services has determined it to be complete, the Applicant shall be notified to submit a minimum of twelve (12) complete copies (or a number specified by the staff planner), of the application and associated materials detailed in the "Submittal Requirements Table" shown on the next page. To the extent a submittal requirement is of a continuing nature, it shall also be considered a General Development Standard under Section 26.4. The Director or the Board of County Commissioners, as appropriate, may require that the Applicant provide any additional study, diagram, information or documentation needed to assist in determining whether the proposed Oil & Gas Facility will be in compliance with the applicable requirements of these Regulations.

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B. SUBMITTAL REQUIREMENTS TABLE

Submittal Requirements – Please see the appropriate section of the General Development Standards for more detail on specific submittal requirements.		Minor	Major	Pipeline ¹
1	Completed Oil and Gas Development Permit Application Form	X	X	X
2	Application Fee (To be determined by separate BOCC resolution)	X	X	X
3	Emergency Response Plan & Spill Protection and Clean-Up Plan	X	X	X
4	Certificate of Mailing	X	X	X
5	Copies of application forms for all applicable state or federal permits, including COGCC Forms 1 & 2.	X	X	X
6	Color aerial photo showing facility location and 2 miles radius			
7	Vicinity Map			
	A Section, township, range	X	X	X
	B Site boundary	X	X	
	C North arrow and scale	X	X	X
	D Current surface ownership within 1,320 feet of site, including the location of residences.	X	X	X
	E Other site-specific information identified and requested at the Pre-Application Meeting.	X	X	X
8	Facility Improvement Plan (FIP) Exhibit – 11" X 17" format, prepared by a Registered Colorado Surveyor or a Colorado licensed engineer.			
9	Facility Operating Plan – a general description of the facility, equipment and material to be on site, and general timeline for major activities on the site (estimated drilling date, completion, reclamation, etc.): Narrative	X	X	X
10	Sound Control Measures and Schematic Details (as applicable): Narrative and Schematic	X	X	
11	Lighting Description and Location of Site Lighting: Narrative and Schematic	X	X	
12	Safety/Security Plan: Narrative	X	X	
13	Visual Mitigation Plan & Visual Mitigation Techniques: Narrative and Schematic	X	X	
14	Wildlife Management Plan: Narrative	X	X	X
15	Water Supply Plan and Surface Water/Aquifer Protection Statement	X	X	
16	Grading and Erosion Control Plan and Storm Water Management Plan: Narrative	X	X	
17	Roads, Access, Haul Routes, & Road Maintenance Agreement: Narrative and Map	X	X	
18	Waste Management Plan: Narrative	X	X	X
19	Weed Management Plan: Narrative	X	X	X
20	Re-Vegetation Plan: Narrative and Schematic	X	X	X
21	Other site specific information identified and requested at the Pre-Application Meeting.	X	X	X
23	Facility Improvement Agreement	X	X	X – when County R.O.W. involved

¹ Pipelines are reviewed as a Major Oil & Gas Facility; however because submission requirements for pipelines are somewhat fewer than for Major Oil & Gas Facilities generally, they are separately shown here and control over conflicting requirements.

C. OIL AND GAS DEVELOPMENT PERMIT APPLICATION

For Oil and Gas Facilities to be located upon real property with split estates, for which the Operator does not currently own or lease the surface estate, the Application form (**Appendix B**) shall be accompanied with the following information:

1. The name, address, telephone and fax numbers and e-mail address of all owners of the property; documentation of surface ownership; evidence of surface owner notification; copies of any surface use/damage agreements and leases affecting the area where the Oil and Gas Facility will be conducted, including proof of right-of-entry for ingress/egress and installation of all necessary infrastructure, and other such provisions relating to the use of the surface estate as may be appropriate. Such submitted agreement(s) may be redacted to delete any provisions pertaining to financial and/or non-monetary compensation that the Operator has paid to the surface owner. For Minor and Major Facilities located within a parcel or parcels for which the Operator is the current owner or lessee of the surface estate, the Operator shall provide a copy of a current title policy reflecting the same or a copy of the lease.
2. Documentation of mineral interest ownership, including name, address, telephone and fax numbers, and email address of the owner of the mineral interests.

D. FEES

The application filing fee and the County Engineer review/inspection fee as set by the Board of County Commissioners shall accompany the application. In the event any additional plan, study, survey or other information is required, or to the degree a specialized consultant is necessary to adequately review and provide input during the application process, the Applicant will be required to provide the same and cover the costs associated with such additional information or review.

E. EMERGENCY RESPONSE AND SPILL PROTECTION AND CLEAN-UP PLAN

The Applicant shall provide an emergency response plan to the Elbert County Office of Emergency Management, Community & Development Services and the jurisdictional fire district. The plan shall at a minimum, consist of the following information:

1. Name, address, and phone number, including 24-hour emergency numbers for at least two (2) persons responsible for emergency field operations.
2. An as-built facilities map showing the name, location and description of all equipment, including the size, type and content of all pipelines and tanks. The map shall be prepared at a scale of 1" = 50' or other scale which clearly shows equipment locations. To the extent allowed by law, the as-built facilities map shall be held confidentially, and only be disclosed in the event of an emergency. To the extent allowed by law, the right of inspection of the as-built facilities map shall be denied to the public pursuant to C.R.S. § 24-72-204(3)(a)(IV).
3. A written response plan for any potential emergencies that may be associated with the construction, drilling, completion, or operation of the facilities. This plan shall include, but not be limited, to any or all of the following: explosions, fires, gas, chemical, water pipeline leaks or ruptures, spills, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents.
4. Project specific emergency response plans are required for any application (Minor or Major Oil & Gas Facility) that involves drilling or penetrating through known zones of hydrogen sulfide gas. This plan shall be coordinated with and approved by the Office of Emergency Management prior to beginning field operations.

F. STATE & FEDERAL PERMITS

The Applicant shall include copies of all applicable state and federal permits (or applications in process for the same) needed for the proposed Oil & Gas Facility, including Colorado Oil & Gas Conservation Commission Forms 1 & 2.

G. VICINITY MAP

The Applicant shall provide a vicinity map showing the proposed Oil & Gas Facility location and roads within two (2) miles of the proposed well site. The vicinity map shall include the section, township and range the facility is to be located in, along with delineation of the site boundary, north arrow and scale, current surface ownership within 1,320 feet of the proposed well site, the location of residential units within 1,320 feet of the proposed well site, and any other items for the vicinity map requested at the Pre-Application Meeting.

H. FACILITY IMPROVEMENT PLAN (FIP)

The Facility Improvement Plan shall incorporate the design elements of these Regulations, when required. The Facility Improvement Plan shall include the following documents, plans, and maps as appropriate:

1. Facility Operating Plan Narrative The Facility Operation Plan shall include projected start and completion dates for construction and operation, the method of drilling, hours of operation during construction and operation; description of the equipment to be used, including horsepower; estimated size of the pad area and number of cubic yards of fill material needed to be brought to or removed from the site during the construction and drilling process; transportation, production, production and post-operating activities, including a site reclamation plan pursuant to Colorado Oil & Gas Conservation Commission requirements and a re-vegetation plan as required by these Regulations.
2. Facility Improvement Plan Graphic The Applicant shall provide a scale drawing showing what facilities and equipment will be located on the site after drilling, during the production phase. The Facility Improvement Plan Graphic shall be prepared by a licensed surveyor or Colorado professional engineer and shall include the following information and/or meet the following standards:
 - a. The Facility Improvement Plan Exhibit shall be at a scale of 1" to 50' or similar scale to adequately show the various components of the entire site.
 - b. The dimensions of the lease area, indicating area in square feet and acres, and the total area of the site to be disturbed.
 - c. The location of all structures, tanks, wells, and any other Oil and Gas Facility or equipment.
 - d. Any pipelines (intermediate, gathering, and transmission lines).
 - e. On-site and adjacent features such as floodplain designations, water courses, drainage, utility lines and easements, ditches, wetlands or aquatic habitat, significant plant ecosystems, wildlife habitat and migration routes, geologic features, vegetative cover, dams, reservoirs, mines, and known cultural resources.
 - f. Distance to residences, buildings, and structure within 1,320 feet of the lease area.

- g. Existing and proposed contours and pad elevations.
- h. Existing and proposed roads within the site as well as ingress and egress from public or private roads.
- i. Details of proposed visual mitigation including buffers, berms, fences, structures, and other screening devices, if applicable. Specify type, height & materials.
- j. Proposed re-vegetation and landscaping.
- k. Schematic detail of any proposed sound mitigation structures, if applicable.
- l. The location of all exterior lighting shall be indicated and lighting shall be directed away from residential areas or be effectively shielded from such areas.
- m. Description of the maintenance and irrigation for at least two (2) growing seasons after re-vegetation and landscaping.
- n. Description of the location, specific species, planting schedule, size, planting method, quantity of seed and mixture, or plant material to be used, mulching, and other related activities.
- o. Schematic and description of the fencing to be used around the well site before and after the drilling phase of the project is completed.
- p. Four (4) color photos taken from the center of the proposed well site facing north, south, east, and west and labeled accordingly.
- q. A color aerial photograph shall be included with the submittal which clearly delineates the site boundary and radiuses at 1/4 mile, 1-mile, and 2-mile radiuses from the well site.
- r. The Facility Improvement Plan Graphic shall include a title block located at the center and top of each sheet of the Facility Improvement Plan Graphic with the following information: name of the proposed site, legal description including the quarter-section, township, range, size of site, whether the site is a Minor or Major Oil & Gas Facility, the Elbert County Oil and Gas File Number (to be provided by Community & Development

Services), and sheet 1 of 2, 3, etc. The name of the proposed facility is based upon the legal description or the street address as follows:

For Legal Description:

Black Gold - Field One
NW¼ Section 31, Township 6 South, Range 63 West,
of the 6th P.M.
5.1 acres
Minor / Major Oil & Gas Facility – EC O&G Well No. 2011-001
Sheet 1 of ____

For Street Address (obtained from Assessor's Office):

3215 Elbert County Road 17
NW¼ Section 31, Township 6 South, Range 63 West,
of the 6th P.M.
4.5 acres
Minor / Major Oil & Gas Facility – EC O&G Well No. 2011-002
Sheet 1 of ____

- s. The following signature blocks shall be provided for Minor Oil and Gas Facilities:

"This Minor Oil and Gas Facility Improvement Plan is hereby approved this _____ day of _____(month), _____ (year), by the Director of Community & Development Services.

Director - Community & Development Services

Recorded this _____ day of _____ (month), _____ (year), by the Elbert County Clerk and Recorder's Office, at Book _____, Page _____, and Reception No. _____."

- t. The following signature blocks shall be provided for Major Oil and Gas Facilities:

This Major Oil and Gas Facility Improvement Plan is hereby recommended for approval this _____ day of _____ (month), _____ (year), by the Director of Community & Development Services.

Director of Community & Development Services

This Major Oil and Gas Facility Improvement Plan is hereby approved this _____ day of _____ (month), _____ (year), by the Elbert County Planning Commission.

Chairman of the Elbert County Planning Commission

This Major Oil and Gas Facility Improvement Plan is hereby approved this _____ day of _____ (month), _____ (year), by the Elbert County Board of County Commissioners.

Chairman of the Board of County Commissioners

Recorded this _____ day of _____ (month), _____ (year), by the Elbert County Clerk and Recorder's Office, at Book _____, Page _____, and Reception No. _____.

I. PERFORMANCE SECURITY

1. For a Minor Oil & Gas Facility, the Applicant shall provide one (1) form of the following security to ensure compliance with mitigation requirements set forth in these Regulations and specific conditions of approval for Minor Facilities which include: the actual estimated cost to implement conditions of approval with a minimum of \$10,000

performance security (irrevocable letter of credit or cash deposit) for each Minor Oil & Gas Facility up to 15 facilities subject to uncompleted conditions of approval (maximum \$150,000); or \$7,500 performance security for Operators with more than 15 Minor Oil & Gas Facilities subject to uncompleted conditions of approval (maximum \$175,000). The Applicant may propose a master bond for all operations controlled by the Applicant within Elbert County for review and consideration. Conditions of approval covered by this performance security shall consist of mitigation measures addressing specific impacts affecting the general public or surface owners required by the applicable standards contained in this section with regard to the County approval. Specific Minor Oil & Gas Facilities shall be released from the performance security requirement after the Applicant demonstrates to the Director that all conditions of approval have been met. If the installation of plant and landscape materials is required as mitigation measures under this section, the performance security shall remain in place for two (2) years after installation or until the site meets all County requirements.

2. For a Major Oil & Gas Facility, the Applicant shall meet all performance guarantee requirements and procedures as required in the approved Facility Improvement Agreement.
3. Performance security exemptions may be granted pursuant to the waiver procedure at Section 26.2.H. Activities that fall under Colorado Oil & Gas Conservation Commission jurisdiction are exempted from this performance security coverage in this section. This section is not meant to replace or supersede the Colorado Oil & Gas Conservation Commission's financial assurance requirement.

J. INSURANCE

Each Applicant for a permit shall maintain general liability insurance for property damage and bodily injury to third parties as required by the COGCC, and such policy shall include Elbert County as a certificate holder so that the County may receive advance notice of cancellation.

SECTION 26.4 GENERAL DEVELOPMENT STANDARDS

All Oil and Gas Facilities shall be constructed and operated consistent with the standards contained in this Section. The development standards in this Section recognize the need to avoid operational conflicts, the rights of surface owners, the right of the County to determine land uses, and the right of the mineral estate to extract minerals. For both Minor and Major Oil & Gas Facility applications, Community & Development Services shall determine the level of detail required based on the potential impacts of the proposed facility.

A. SOUND CONTROL MEASURES

All construction, maintenance, and operations of the Oil and Gas Facility shall be conducted in such a manner so as to make the least noise possible. The following sound emission standards shall apply:

1. The exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the closest existing residences or platted subdivision lots.
2. All facilities with engines or motors (except wellhead compressor engines) shall be electrified if located within 1,320 feet of distribution voltage (3-phase power with a distribution voltage of 12.47 kV – 3-phase power). Internal combustion engine powered artificial lift equipment may be used prior to the time that a site facility is electrified.
3. All facilities which are not electrically operated shall be equipped with “quiet design” mufflers (also referred to as hospital grade or dual dissipative) or equivalent. Such mufflers shall be properly installed and maintained in proper working order.
4. When well drilling operations are occurring within one-quarter (1/4) mile of a residence, or office, retail, school or church use, adequate noise mitigation sound barriers shall be used and placed so as to minimize noise. Sound baffling plans and a narrative description of noise mitigation shall be required at the time of the Oil & Gas Development Permit Application for all well drill sites within one-quarter (1/4) mile of a residential structure, office, retail, school, or church.

5. Sound emissions shall at minimum be in accordance with the standards as adopted, and amended from time to time by Colorado Oil & Gas Conservation Commission.
6. One or more of the following additional noise abatement measures may be used as appropriate:
 - a. Acoustically insulated housing or cover enclosing the motor or engine.
 - b. Solid wall or fence of acoustically insulating material surrounding the portion of the facility generating the unacceptable noise; all or part of the facility.
7. The Operator may suggest other oil and gas industry solutions for noise abatement and alternate solutions based upon past experience and application.
8. In addition to, and not in substitution of the foregoing, all Oil and Gas Facilities shall comply with State of Colorado noise standards of: 55 db(A) from 7:00 AM to 7:00 PM and 50 db(A) from 7:00 PM to 7:00 AM at the property line.

B. LIGHTING DESCRIPTION AND LOCATION OF SITE LIGHTING

All lighting shall be shielded to direct light toward the operation or equipment and to minimize impact to surrounding properties. Lighting on the site should be adequate to insure safety of the work crew and safe operations on the site, while employing techniques and practices to minimize light impact to surrounding properties. The location of all site lighting shall be shown on the Facility Improvement Plan.

C. SAFETY & SECURITY PLAN

Safety practices in accordance with state and federal law, including the Occupational Safety and Health Act of 1970, Public Law 91-596 84 Stat. 1590 91st Congress, S.2193, December 29, 1970, as amended through January 1, 2004, shall be used at all times during site development, drilling, and production to minimize danger to the general public.

Open-ended discharge valves on all storage tanks, pipelines, and other containers shall be secured (locked) at any facility that is unattended or accessible to the general public.

All facilities containing any tank, spill containment facility, or other structure containing flammable or combustible materials shall be kept free of weeds, grass, or rubbish.

Security fencing and a locked gate for all Oil & Gas Facilities shall be required for unattended facilities at the following locations:

1. Where there is an existing residence within 660 feet of the well pad or compressor pad site.
2. Where there is a public or private school within 660 feet of the facility site perimeter. Where there is any other existing structure with commercial occupancy as defined by the building code within 660 feet of the facility site perimeter.
3. Where there is an existing recreational facility designated by an appropriate federal, state, or local authority within 660 feet of the facility site perimeter.

D. VISUAL MITIGATION PLAN AND VISUAL MITIGATION TECHNIQUES

The Operator shall use the following standards and techniques to minimize the visual impact of Oil & Gas Facilities:

1. The Operator shall replace earth adjacent to drainage ways to match naturally occurring grades and in accordance with the requirements outlined in the *Elbert County Construction Standards and Specifications Manual*.
2. To the maximum extent possible, the Operator shall align access roads to follow existing grades to minimize cut and fill.
3. Oil and Gas Facilities shall use uniform colors for all components to be on-site for six (6) months or longer, provided however, temporary tank containers that are routinely shuttled from one site to another are specifically exempted from this section. The following colors shall be used:
 - a. Uniform, non-contrasting, non-reflective color tones, similar to Bureau of Land Management Standard Environmental and Supplemental Colors coding system shall be used for all equipment remaining on site after the drilling phase is completed.
 - b. Colors shall be earth-tone and matched to land, (not sky), and slightly darker than the adjacent landscape.
4. The Operator shall minimize damage to existing trees and vegetation.

5. Pad dimensions for facilities shall be the minimum size necessary to provide a safe work area. Surface disturbance shall be minimized.
6. When an Oil & Gas Facility is located within 1,320 feet of a residential, church, commercial, or school use, a perimeter decorative fence shall be approved by Community & Development Services and shall be constructed of wrought iron or other acceptable material. Such fencing may be combined with or installed in lieu of the security fence required by subsection C above, and shall be installed once the drilling/fracking phase of the operation has been completed and prior to production being initiated. In addition, landscaping shall be installed around the perimeter screen fencing as follows:
 - a. A minimum six foot (6') tall evergreen tree shall be provided for every thirty linear feet (30') of fencing. The trees shall be planted in clusters to appear natural. Such clusters shall be positioned to provide the maximum amount of screening to surrounding properties.
 - b. Vegetation shall be watered and kept in living condition for the first two (2) growing seasons from planting.
 - c. A landscape bond shall be required in a dollar amount equal to the total costs estimate for the plant materials, including installation. Such estimate shall be provided by the Applicant at the time of initial application for the Oil and Gas Facility. The landscape bond will be refunded after the initial two year period provided the vegetation is alive. Should the vegetation not survive the two growing seasons initial period from planting, the bond will be used to replace the dead vegetation with similar vegetation.
7. The following techniques may also be used to minimize visual impacts of an Oil & Gas Facility:
 - a. Establishment of berms with re-seeding of native grasses and trees.
 - b. Shaping slopes (cuts and fills) to appear as natural forms.
 - c. Designing the facility to utilize natural buffers.
8. Upon completion of the well or other work associated with the development of the site, including construction of compressors, tank

batteries and roads, the Operator shall re-seed disturbed areas not in active use for those facilities with native grasses or other vegetation similar to existing vegetation.

E. WILDLIFE MANAGEMENT PLAN

1. The Oil and Gas Facility shall not cause significant degradation of wildlife, including any federal, state or Colorado Natural Heritage Program identified species of concern, or to their habitat. At a minimum, the facility and its operation shall comply with the Colorado Department of Wildlife's recommended Standard Operating Practices for all Oil and Gas Operations in Colorado.
2. When planning facilities, the Operator shall consult and reference the current wildlife occurrence data, including the Colorado Department of Wildlife's Natural Diversity Information Source database (NDIS) and the Colorado Natural Heritage Program database to identify species of concern that may occur in the vicinity of the proposed Oil and Gas Facility. Occurring species must be surveyed, mapped and reported using Colorado Department of Wildlife protocols and existing Colorado Department of Wildlife occurrence data, including those on the defined list of species for which limited data exists and/or where occurrences may move from one year to the next.
3. Surveys will be conducted within ½ mile of the proposed Oil and Gas Facility on lands legally accessible to the Operator. All data from wildlife surveys performed shall be forwarded by the Applicant to Community & Development Services, Colorado Department of Wildlife, and Colorado Natural Heritage Program on completion.
4. Community & Development Services may consider the comments of Colorado Department of Wildlife and shall rely on any of the standard operating procedures in the creation of conditions of approval to address site-specific wildlife mitigation for an Oil and Gas Facility. The site-specific mitigation or best management practices, at the discretion of Community & Development Services, may be included as conditions of approval for an Oil & Gas Development Permit.
5. The following measures shall be included in the site specific wildlife mitigation procedures required under this subsection E, as appropriate:

- a. The "Restricted Surface Occupancy" areas listed by the Colorado Department of Wildlife should be avoided to the maximum extent possible when planning and conducting Oil and Gas Development Operations. Avoidance of these areas is the presumptive standard for Oil and Gas Development in Elbert County.
- b. Oil and Gas Facilities, roads, fencing, and lighting shall be sited to minimize the impact and disturbance on wildlife habitat and wildlife corridors as identified or mapped by the Colorado Division of Wildlife.
- c. To the greatest extent practicable, align pipelines with established roads in order to minimize the construction of new roads and reduce habitat fragmentation and disturbance.
- d. In areas where vegetation is removed re-vegetate disturbed areas with native grasses, plants, and shrubs. To the greatest extent practicable, keep the removal of trees to a minimum.
- e. During pipeline construction for trenches that are left open for more than five (5) calendar days and are greater than five (5) feet in width, install wildlife crossovers and escape ramps where the trench crosses well-defined game trails and at a minimum of 1,320-foot intervals where the trench parallels well-defined game trails.
- f. Do not place equipment staging, storage, and refueling areas within two-hundred feet (200') of riparian and wetland areas.
- g. When crossing streams, drainages, or irrigation ditches with a pipeline, use boring technology or other best management practices, so that little of the channel, bank, and riparian vegetation are impacted.
- h. In lieu of a site-specific mitigation review for each facility, the Applicant may submit to Community & Development Services a multiple-site wildlife plan to address the cumulative impacts to wildlife from the estimated total number of facilities. Upon review and acceptance by the County, additional facilities may be added to an accepted multiple-site wildlife plan.

F. WATER SUPPLY PLAN AND SURFACE WATER/AQUIFER PROTECTION

The County finds that the protection of the water resources is of primary importance, and must be adequately ensured by any Applicant for an Oil & Gas Development Permit. Acknowledging the quality and value of the significant subsurface water resources underlying Elbert County, and all present and future interest in these water resources, the Oil and Gas Facility may not pose any significant risk nor cause any degradation in quality or quantity of these fresh water resources. At a minimum, the Oil and Gas Facility shall comply with Colorado Oil & Gas Conservation Commission Rules Sections 324 and 325. In addition, the following shall apply:

1. The Operator shall identify the proposed source of any fresh or potable water required for the operation of the Oil and Gas Facility, along with a letter from the office of the State Engineer indicating that the water supply source is legally decreed or permitted as acceptable for use for Oil and Gas Operations.
2. The Oil and Gas Facility shall not cause degradation in the quality or quantity of surface waters from the addition of non-point source pollution.
3. The entire pad site with the Oil and Gas Facility shall be located a minimum of one-thousand feet (1,000') from the normal high-water mark of any water body, unless such a setback would interfere with spacing requirements established by the Colorado Oil & Gas Conservation Commission.
4. Prior to commencement of any drilling operations, the Operator will contact all surrounding property owners with active well permits and irrigation or livestock wells, within one (1) mile of the proposed well site and ask permission to conduct water sampling and analysis pre-drilling, post drilling, post completion, and post production every five (5) years for a period of fifteen (15) years. The testing schedule will restart after the drilling of a new well on an existing well pad if the wells to be tested include those tested for previous drilling programs. Additional "post completion" test(s) may be required if changes in water quality are identified during follow-up testing. The Director of Community and Development Services may require further water well sampling at any time in response to complaints from water well owners.

5. The wells will be analyzed for relevant changes as compared to the pre-drilling analysis. The "Initial baseline testing" described in this paragraph shall include all major cations and anions, TDS, iron and manganese, nutrients (nitrates, nitrites, selenium), dissolved methane, pH, presence of bacteria and specific conductance and field hydrogen sulfide. The costs for such testing and analysis shall be the responsibility of the Operator. The Operator shall provide copies of such water tests and all analyses to the property owners and to Elbert County Environmental Health Department. All such tests and analyses shall comply with Colorado Oil & Gas Commission water well testing and water-bearing formation protection procedures and requirements.
6. Within three (3) months of each collection of samples used for the test, copies of all test results described above shall be provided to the COGCC and the County and the landowner where the water quality testing well is located.
7. Until such time as final reclamation of a site has been completed as described in the Colorado Oil & Gas Conservation Commission Reclamation Regulations, all "Test and Survey" reports and water well testing information that have been required by the Colorado Oil & Gas Commission to determine the presence of waste or occurrence of pollution, as well as the results from well-head monitoring to allow safe and convenient determinations of pressure and fluid flow, shall be forwarded to Community & Development Services, Attention: Director.
8. If free gas or a methane concentration level greater than 2 mg/L is detected in a water quality testing well, compositional analysis and carbon isotopic analyses of methane carbon shall be performed to determine gas type (thermogenic, biogenic or an intermediate mix of both). If the testing results reveal biogenic gas, no further isotopic testing shall be done. If the carbon isotope test results in a thermogenic or intermediate mix signature, annual testing shall be performed thereafter and an action plan shall be drafted by applicant to determine the source of the gas. If the methane concentration level increases by more than 5 mg/L between sampling periods, or increase to more than 10 mg/L, an action plan shall be drafted to determine the source of the gas.

9. All Oil and Gas Facilities/Operations shall comply with applicable state water quality standards and classifications established by the Water Quality Control Commission.

10. Due to the scope and depth of groundwater resources, only closed-loop (no open pits) drilling systems shall be permitted in Elbert County.

G. GRADING AND EROSION CONTROL PLAN AND STORM WATER MANAGEMENT PLAN

1. The Operator shall submit a grading and erosion control plan and storm water management plan which shall be approved by the County Engineer and shall comply, at a minimum, with state storm water management standards. At all times best management practices shall be used to prevent storm water discharges from impacting surface water quality.

2. Oil and Gas Facilities shall be located so as to use only as much of the surface as is reasonably necessary for the operation of the facility and to avoid the unreasonable loss of vegetated land surface. The Operator of all Oil and Gas Facilities shall apply for and obtain approval of a grading and erosion control permit prior to any land disturbance. Grading and erosion control plans are issued by the Elbert County Road & Bridge Department. Prior to the permit being issued, the County Engineer shall review and approve all drainage and erosion control plans and reports. Storm water management for construction activities at oil and gas sites shall be in compliance with the *Colorado Oil and Gas Conservation Commission Policy for Storm Water Management Inspections, Enforcement and Interaction with Water Quality Control Commission Regulations (August 16, 2006)*.

3. The entire disturbed area of the site used for active operation shall have all topsoil stripped to a depth not exceeding the depth of the topsoil, as reported in the notes section of the Facility Improvement Plan. The topsoil will be placed on the highest point of the site to mitigate erosion and run-off in storm conditions or spill events. The Operator will grade the site to direct surface run-off into a catch pit on site. The Operator will remove suitable amount of topsoil on the site to construct at least a twelve inch (12") high berm around the entire site, except at the access/egress point. The access/egress point will slope back into the site to prevent run-off from the site. A containment ditch will be formed

around the external perimeter of the berm conducive with the surface run-off. The ditch and any run-off containment area will be lined with an impermeable liner with a minimum thickness of 40 mil to protect the soil and groundwater from contamination.

4. Upon completion of all on-site development operations, excluding the production phase, all structural pads shall be removed, the run-off mitigation will be removed and set up in a manner to prevent surface and storm water collecting around the well site. All sub-soil from the mitigation phase will be replaced and the disturbed site area will be "deep ripped" or plowed to bring the soil back to the similar level of compaction prior to the development operations. The topsoil will be replaced and subsequently seeded with a mix recommended by the jurisdictional soil conservation district, irrigated and managed until the area grows back to a similar level prior to the pad development.

H. ROADS, ACCESS, HAUL ROUTES, AND ROAD MAINTENANCE AGREEMENT

4. Ingress and egress points to public roads shall be located, maintained, and improved to assure adequate capacity for efficient movement of existing and projected traffic volumes and to minimize traffic hazards. The Director of the Elbert County Road & Bridge Department shall approve all such ingress/egress locations and any required improvements necessary for the safe and efficient ingress/egress to the site.
5. If the projected use of the public roads resulting from the Oil and Gas Facility/Operation will result in a need for an increase in roadway maintenance or snow removal on County roads, the Operator shall:
 - a. Reimburse the County for any necessary emergency repairs; and
 - b. For all impacts prior to the production phase of a facility provide a bond or other financial assurance in an amount acceptable to the County Road and Bridge Director to cover any costs of repairing Oil & Gas Facility-related impacts to roads due to the operation that have not been offset by overweight vehicle fees and impact fees. Such repair shall be to a standard of returning the affected roads to their condition prior to the initiation of oil & gas operations.

- c. During the production phase of the facility, repair on a weekly basis, any damage due to its operation, to the satisfaction of the County Road & Bridge Director. In the event the Operator fails to promptly make required repairs, the County may elect to do so and invoice the Operator. If the invoice is not paid within 30 days, the Road & Bridge Director may proceed to collect the same by any lawful means, including certifying the delinquent amount to the County Treasurer for collection in the same manner as ad valorem taxes.
6. Access roads serving Oil and Gas Facilities, including track mats and existing and/or proposed roads that connect a facility to a County road, shall be reviewed in accordance with this section and the *Elbert County Construction Standards and Specification Manual* and shall be subject to all applicable impact fees. The Operator shall provide the Elbert County Road & Bridge Department with color photographs of all County roads to be used for haul routes, which show the condition of the road prior to the use of the road by Oil and Gas Facility construction-related traffic. All proposed transportation routes to the site shall be reviewed and approved to minimize traffic hazards and adverse impacts on County roads and to avoid more densely populated residential areas. Existing roads shall be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts are determined to require new or additional roads, or unless the Operator demonstrates to the County's satisfaction that it has been unable to obtain authorization to use an existing road. The Operator may be required to install street signage, turn lanes, acceleration/deceleration lanes, fencing, drainage culverts, gates, cattle guards or other necessary improvements as required by the Director of the Elbert County Road & Bridge Department.
7. For those access roads located between the parcel on which an Oil and Gas Facility is proposed and the County or State highway serving such an Oil and Gas Facility, the Operator shall provide written documentation as part of the application demonstrating that it has the legal right to use such road(s) for the purpose of accessing the Oil and Gas Facility and the Operator shall demonstrate that such road(s) can provide adequate physical access to the proposed Oil and Gas Facility, in accordance with applicable access standards for local fire and emergency service districts.

8. In those instances where an Operator accesses an Oil and Gas Facility via a road or roads within a County-approved subdivision and a governing entity exists (e.g. homeowners' association) with legal authority to bind the entity and its members, and with the authority to grant access rights over such roads and/or negotiate agreements with respect to their use, the Operator will negotiate a fair and reasonable road maintenance or road improvement agreement with such entity for the purpose of paying or making in-kind contributions for its pro rata share of the cost of maintaining or improving the affected road(s). Such agreement or memorandum shall be recorded with the Clerk and Recorder's Office.
9. Installation of Oil and Gas Facilities which are accessible by non-maintained roads included in the County road system, which the County Road and Bridge Director determines are inadequate to safely accommodate the additional traffic associated with the operation of the Oil and Gas Facility, shall be permitted only if such roads are improved and maintained by the Operator to a level which the County Road and Bridge Director determines is necessary to allow such traffic to use such roads in accordance with applicable State and County standards.
10. All access and oversize or overweight vehicle permits must be obtained from the Elbert County Road and Bridge Department prior to beginning construction of a facility or use of a County road.
11. If access is directly off a state highway, the Operator must have an approved State highway access permit for the proposed Oil and Gas Facility.
12. Regarding the use of County roads, the Operator shall:
 - a. Remove tire chains from heavy equipment before entering onto a County road;
 - b. Ensure that all new roads and well pads are graveled with a minimum of four inches (4") of "Class 6 Aggregate Base Course" (or other material acceptable to the Director of the Road & Bridge Department), as defined by the Colorado Department of Transportation Standard Specifications for Road and Bridge construction over a stabilized base, both of which

shall be maintained throughout permanent operations of the well pad; and

- c. Remove and restore the condition of the road as promptly as is reasonable under the circumstances if mud and/or debris are tracked onto the County road by the Operator's equipment. A "track mat" will be constructed where the facility access meet County roads. The "track mat" will be a minimum of seventy-five feet (75') in length and consist of a suitable stone pad to allow for clean down prior to accessing onto County roads or State highways.

13. Full disclosure, including Material Safety Data Sheets, of all hazardous materials that will be transported on any public or private roadway within the County for the Oil & Gas Facility/Operation must be provided to the Elbert County Office of Emergency Management. This information will be held in strictest confidence and shared with other emergency response personnel only on a "need-to-know" basis.

I. WASTE MANAGEMENT PLAN

1. When an Oil and Gas Facility becomes operational, all construction-related debris shall be removed from the site. The site shall be maintained free of debris and excess materials at all times during operation.
2. No burning of trash shall occur on the site.
3. All human waste shall be fully contained and disposed of off-site at an appropriately licensed facility in accordance with all County Regulations.
4. Operators shall ensure that all exploration and production waste is properly stored, handled, transported, treated, recycled or disposed of to prevent threatened or actual significant adverse environmental impacts to air, water, soil or biological resources.
5. A written management plan for waste minimization through the beneficial reuse and recycling of exploration and production waste is required. The plan shall describe the proposed use of the waste and the methodology for recycling of the majority of the exploration and production waste for re-use in the fracking process at the original well

site and/or at other well sites within the County, method of waste treatment, method of storing drilling fluids, fracking fluids, and salt water in battery tanks or other acceptable containers, and shall include a copy of any certification or authorization that may be required by other laws, rules, or regulations.

J. CONTROL AND DISPOSAL OF PRODUCED WATER

1. On-site containment and disposal of water associated with Oil & Gas Facilities shall be in accordance with applicable Federal, State and County requirements and all other provisions of these Regulations. No produced water may be disposed of on site.
2. The Applicant shall incorporate on-site treatment of, and adequate on-site storage capacity for, produced and back-flow waters to reduce the volume of water used in the drilling process and to reduce truck volume on County roads. Except during drilling and completion Operator shall use reasonable efforts to transport produced water by pipeline, to a central water purification site or transport to an Environmental Protection Agency approved facility. The final disposition of produced water from any Oil and Gas Operation shall be by the most environmentally beneficial method based upon its relevant characteristics. The water will be tested by a state and/or U.S. Environmental Protection Agency-Approved analytical laboratory for contaminants, including but not limited to salts, metals, hydrocarbons, chemical residues, total dissolved solids and radioactive materials and the disposal method determined in consultation with the Colorado Oil & Gas Conservation Commission and the Colorado Department of Public Health and Environment, in accordance with relevant regulatory agency requirements and industry best management practices. Community & Development Services and the Elbert County Health and Environment Department shall receive a copy of the test results, which will be public information.
3. Secondary containment shall be constructed or installed around all tanks containing crude oil, condensate, or produced water; and shall be sufficient to contain the contents of the largest single tank plus fifteen percent (15%) freeboard, plus ten percent (10%) additional firefighting volume. Secondary containment structures shall be sufficiently impervious to contain discharged material.

K. WEED MANAGEMENT

The Operator shall be responsible for ongoing weed control for all permitted Oil and Gas Facilities and the access roads under Operator's control. The appropriate weed control methods and species to be controlled shall be determined through review and recommendation of the Natural Resource Conservation Service, the Colorado State University Extension Service and/or the Kiowa Soil Conservation District, in accordance with the Colorado Noxious Weed Act and any applicable Resolution of the Board of County Commissioners for the management and eradication of noxious weeds in Elbert County.

L. RE-VEGETATION PLAN

Where site grading reduces or destroys existing vegetation, the Operator, after consultation with the surface owner and the Kiowa Conservation District shall develop a re-vegetation plan for the site. The plan shall specify species, planting schedule, planting method, quantity of seed or plant material to be used, and other related components compatible with the surrounding land and in accordance with industry best management practices. The Operator may, in consultation with NRCS, develop a standard re-vegetation format for all sites within the County, for submittal with Oil & Gas Development Permit Applications. Re-contouring and re-vegetation of the surface to pre-disturbance conditions equivalent to adjacent undisturbed areas will generally be required. The County may also approve a plan for an alternative post-disturbance reclamation, provided the surface owner and the Applicant agree.

M. PARCEL SIZE; MAXIMUM NUMBER OF WELLS

The minimum parcel size for all Oil & Gas Facilities shall be ten (10) acres. Proposed well sites shall be located on parcels of sixty (60) acres or greater. For all Oil & Gas Facilities, the number of well pads shall not exceed five (5) within any single 640-acre governmental section of real property. Notwithstanding the foregoing, nothing contained in this Subsection shall be construed so as to require the closure or abandonment of any existing well. Waivers to this Section may be granted when one (1) or more of the following factors apply that the limit of five (5) well pads per governmental section is rendered impractical:

1. Topographic characteristics of the site.
2. Natural resource constraints (e.g. wetlands).
3. The location of utilities or similar services.
4. Demonstratively insurmountable technical issues related to the development or management of the mineral resource.

5. Other site conditions beyond the control of the Applicant.
6. Demonstrable safety concerns.

N. SETBACKS

1. A setback of at least six-hundred (600) feet shall be required between the wellhead and the closest existing residential structure or platted building envelope. A waiver to this standard may be granted if verified written consent is obtained from the affected surface property owner(s).
2. A setback of at least two-hundred (200) feet shall be required between the wellhead and the closest property line. A waiver to this standard may be granted by the Director (for Minor Oil & Gas Facilities) or the Board (for Major Oil & Gas Facilities) if verified written consent is obtained from the affected property owner(s).
3. Setbacks between a Major Oil & Gas Facility structure boundary and the closest existing residential, commercial, or industrial building or property lot line shall be determined on a site specific basis, based on the approval standards identified in the "Approval Standards for an Oil and Gas Development Permit" section of these Regulations, as applicable, but shall be no less than those required for a Minor Oil & Gas Facility, unless waived by the affected landowner, where applicable.
4. The setback distance shall be measured from the nearest edge of the affected pipeline(s). When a pipeline is proposed within $\frac{1}{4}$ mile of residential, commercial, schools, and other habitable structures, and at road crossings, the Director shall require the Applicant to provide a risk-based engineering study for all, or part, of its proposed pipeline right-of-way and may require the implementation of more stringent construction, operation standards, or greater setbacks.
5. In those instances, where the setback requirements of this Section cannot be met, the use of an existing well pad site may be utilized for locating a new well, provided that the placement of the new well's wellhead is not closer to the nearest lot or property line or building structure for human occupancy than the existing well's wellhead.

O. AIR QUALITY

No Oil and Gas Facility shall cause significant degradation to air quality. The following requirements apply to all facilities:

1. Air emissions from the operation shall be, at a minimum, in compliance with the permit and control provisions of the Colorado Air Quality Control Program, Title 25, Section 7, C.R.S.
2. Oil and Gas Facilities are prohibited from causing airborne emissions that are known to cause negative health impacts to humans or animals.
3. Vapor recovery systems shall be used for all permanent Oil and Gas Facilities in place of the practice of "flare-off" of vapors and gases.
4. Oil & Gas Facilities and equipment shall be operated in such a manner that odors and dust do not constitute a nuisance or hazard to public health, safety, welfare, and the environment.
 - a. At a minimum, compliance with Colorado Oil & Gas Conservation Commission Rules Section 805.b.(1) shall be met.
 - b. Operators shall employ practices for control of fugitive dust. Such practices shall include, but are not limited to the use of speed restrictions, regular road maintenance, and restriction of earth moving construction activity during high-wind days.
5. Greenhouse Gas Reduction – The Operator shall make every reasonable effort to minimize methane emissions by using all feasible "green completion" techniques, pursuant to Colorado Oil & Gas Conservation Commission Rules Section 805(3) and the installation of "low bleed" pneumatic instrumentation.
6. Emission Control Equipment – The Operator shall comply with existing Environmental Protection Agency rules and any future regulations validly adopted by an authority. To the maximum extent possible, all fossil fuel powered engines used on site shall employ the latest emission-reduction technologies, e.g. high pressure direct injection of fuel and exhaust gas recirculation.

P. FRACTURING FLUIDS AND CAVITATION

1. Elbert County sits atop multiple aquifers that contain vast quantities of high-quality water, which is vital to sustain all aspects of the rural life-style. The County has a responsibility to protect these essential and irreplaceable aquifers. The County presently relies upon regulation of the COGCC governing the fracturing process. To the extent in the future it becomes necessary and legally available, the County may amend these Regulations to further address this subject.

Q. GEOLOGIC HAZARDS AND FLOODPLAINS

1. Oil and Gas Facilities shall not be located in a geologic hazard area.
2. Oil and Gas Facilities shall not be located in a flood hazard area as depicted on the Elbert County Flood Hazard Maps.

R. EMERGENCY REPORTING AND SPILL PROTECTION CLEAN-UP PLAN

1. The plan filed with the Office of Emergency Management Community & Development Services and the jurisdictional fire district shall be updated on an annual basis or within fifteen (15) calendar days as conditions change (emergency contact person changes, equipment addition, relocation, etc.).
2. The Operator shall implement and maintain a "no spill, no liquid on the ground policy". If a spill event occurs, the amount and type of liquid spilled will immediately be reported to the Elbert County Office of Emergency Management, Elbert County Environmental Health Department, the Operator's home office, and the Environmental Protection Agency (as required for spills more than 42 gallons). Immediate clean-up will be initiated when a spill occurs. Clean-up will include, but is not limited to, the removal of the soil to the depth of penetration of the liquid spilled, but will be a minimum of two inches (2"). The soil will be removed from the site and disposed of at an approved disposal site or method as defined in the Emergency Response Plan.

SECTION 26.5: DEFINITIONS

The following words, terms and phrases, when used in these Regulations, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Additional definitions are located in *Part II, Section 27 of the Elbert County Zoning Regulations*. All other words, terms and phrases used in these Regulations shall be given their usual, customary and accepted meaning in the oil and gas industry.

Abandonment: The permanent abandonment of a well, based on the Operator's filing of abandonment with the Colorado Oil and Gas Conservation Commission (COGCC). Presumption of permanent abandonment of a "Major Oil and Gas Facility" shall be based upon non-use or non-operation for one year without notification to the Director of the intent to resume operations under specified conditions.

Access Road: A road located on private property between the site on which an Oil and Gas Facility is located and the municipality or County road or state highway serving such a facility, constructed in accordance with the private road standards as specified in the *Elbert County Standards and Specification Manual*.

Agricultural: Land that is currently zoned "Agricultural (A)" and in use for farm or ranch purposes, including pastures and assessed in the County Assessor's records as agricultural land.

Applicant: That person, corporation or other legal entity possessing the legal right to develop the mineral resource or their "Authorized Representative" who applies for an "Oil and Gas Development Permit (OGDP)" from Elbert County.

Authorized Representative: One authorized to make binding representations on behalf of the Applicant.

Best Management Practices (BMP): Established techniques used in conducting mineral extraction operations which eliminate or minimize adverse impacts to public health, the environment, wildlife and cattle, landowners, and natural resources; which enhance the value of natural and landowner resources; and which reduce conflicts. BMPs are intended to promote the best practices or solutions in the conduct of operations.

Board: Elbert County Board of County Commissioners.

Centralized Facility: A facility capable of serving multiple well pads consisting of one or more compressors, generators, or equipment for treating water, gas, and oil.

Chemical(s): Any element, chemical compound or mixture of elements or compounds.

Chemical Inventory: A list of the chemical products (including material safety data sheets) at a well pad for use during drilling, completion, and work-over operations, including fracture stimulations.

Chemical Product: Any product consisting of one or more constituent chemicals that is marketed or sold as a commodity. Chemical products shall not include substances that are known to be entirely benign, innocuous or otherwise harmless, such as sand, walnut shells and similar natural substances.

Closed-Loop Drilling Fluid System: A BMP alternative to open pits which separates solids from liquids. In a closed-loop drilling fluid system, the open pit is replaced with a series of storage tanks that separate liquids and solids. Equipment to separate out solids (e.g., screen shakers, hydro-cyclones, centrifuges) and collection equipment (e.g., vacuum trucks, shale barges) minimize the amount of drilling wastes mud and cuttings that require disposal, and maximize the amount of drilling fluid recycled and reused in the drilling process. The wastes created are typically transferred off-site to an appropriately licensed oilfield waste disposal facility.

Collection Line: A pipeline to a well, designed to collect produced or waste water and transport it to a central tank battery for separating solids and recycling drilling fluids for re-use in the drilling operation.

Community & Development Services (C&DS): The planning and zoning office for Elbert County.

Containment Pit: A subsurface earthen excavation (lined or unlined), or subsurface open top tank, used for the purpose of retaining or storing substances associated with the drilling or operation of oil and gas wells.

CDOW: Colorado Division of Wildlife.

COGCC: Colorado Oil and Gas Conservation Commission.

County: Elbert County, its Board of County Commissioners or other department of Elbert County with delegated authority to set or enforce these Regulations.

Decorative Fencing: Wrought-iron or other acceptable fencing around wellheads and tank batteries that are located within one-quarter (1/4) mile of a residence.

Department: Elbert County Community & Development Services (C&DS).

Director: Director of Community and Development Services, or his/her designee.

Drainage Plan: A written description and depiction on a site plan for the collection, transport, treatment and discharge of storm-water runoff.

Drilling Operation: Any work or actual operation undertaken for the purposes of carrying out any of the rights, privileges or duties of a lessee for drilling of an oil well, gas well, water well, or cathodic protection well, and by the actual operation of drilling in the ground.

Equipment: Machinery or structures located on well pads or rights-of-way including, but not limited to, wellheads, separators, dehydration units, heaters, meters, storage tanks, compressors, pumping units, internal combustion engines, and electric motors.

Facility: A site and the equipment associated with a site used for the production, transportation, treatment, and storage of oil, gas, and waste products.

Facility Improvement Plan: A narrative which provides a general description of the proposed Oil and Gas Facility/Operation and describes how the facility conforms to these Regulations. The Facility Improvement Plan shall address: sound control measures; facility lighting description; visual mitigation techniques; wildlife management plan; water supply plan and surface water/aquifer protection information; grading and erosion control measures; road access, haul routes, and road maintenance measures; information regarding waste disposal; weed management techniques; re-vegetation plan; and a Facility Improvement Plan Exhibit.

Facility Improvement Agreement: This Agreement shall be required to identify the costs of improvements necessary to implement the Facility Improvement Plan. An "Exhibit A" shall be attached to the agreement outlining the improvements and associated costs. The County Engineer will review and approve "Exhibit A" of the Facility Improvement Agreement.

Flowline: A pipeline that will transport oil, gas, water or other fluids, connecting an individual well or wells to production, processing, and metering equipment.

Fracking: The procedure of creating fractures in rocks and rock formations by injecting fluid into cracks to force them open. The larger fissures allow more oil and gas to flow out of the formation and into the wellbore, from where it can be extracted.

Gas Well: A well capable of producing natural gas.

Gathering Line: A pipeline capable of transporting produced gas, oil, or water from multiple intermediate lines.

Grading Erosion and Sediment Plan: A plan view and cross section of existing and proposed contours, cuts and fills, topsoil storage location and stabilization methods, and maximum slopes. This plan is required as part of the grading permit application through Elbert County.

Heavy Equipment: Drilling rigs, completion rigs, construction equipment, and individual truck and trailer combination vehicles with a gross vehicle weight exceeding five (5) tons.

Improvement: Any new construction activity or addition of equipment or materials to a site.

Intermediate Line: A pipeline transporting produced gas, oil, or water from one well pad after it passes through production metering equipment to a gathering line.

Lessee: The entity entitled under an oil or gas lease to drill and operate wells. The lessee may also be the Applicant for purposes of this section.

Lot: A parcel of land designated as a lot on a recorded plat or a parcel of land that has been recorded by a deed in the Elbert County Clerk and Recorder's Office provided such lot was created in compliance with state laws and Elbert County subdivision and zoning regulations in effect at the time the parcel was created. Also, referred to as a lot of record (a tax parcel is not necessarily a lot of record).

Major Oil & Gas Facility: Centralized facilities; water injection disposal sites, centralized water transfer stations, centralized water pump stations, and associated facilities serving multiple well pads; compressor stations; any permanent equipment facility or structure related to the production of oil and gas that contains an internal combustion engine; with a cumulative horsepower (de-rated for elevation), of 200 brake horse power (bhp) or greater; pipelines to central collection facilities; any Oil and Gas Facility not meeting the definition of Minor Oil & Gas Facility; storage and construction staging yards in place for longer than six (6) months.

Minor Oil & Gas Facility: An individual well pad built with one or more wells and operated to produce liquid petroleum and/or natural gas including, associated equipment required for such production; intermediate lines which extend from the wellhead, gathering lines, and ancillary equipment including, but not limited to, drip stations, vent stations, pigging facilities, chemical injection stations, and valve boxes; temporary storage and construction staging yards in place for less than six (6) months.

Oil & Gas Development Permit: A permit issued by Elbert County which permits the development of an oil and gas site within the unincorporated areas of the County.

Oil & Gas Facility Requiring Special Mitigation: An individual well pad built and operated to produce petroleum and natural gas and associated equipment (as defined above) that does not meet the minimum setback and other requirements specified in this section; any facilities which do not comply with all applicable standards and requirements, as set forth in this section, and which are not classified as Major Facilities; continuous drilling and completion operations of wells or well legs on a well pad, estimated to continue for longer than six (6) weeks.

Non-conforming Use: A use that was pre-existing and legally established that does not comply with these Regulations.

Oil Well: A well capable of producing crude petroleum oil.

Open Pit: A subsurface earthen excavation (lined or unlined), or subsurface open top tank, used for the purpose of retaining or storing substances associated with the drilling or operation of oil and gas wells. Open pits are not allowed in Elbert County per these Regulations.

Operating Plan: A general description of a facility identifying purpose, use, typical staffing pattern, equipment description and location, access routes, seasonal or periodic considerations, routine hours of operating, source of services and infrastructure, and any other information related to regular functioning of that facility.

Owner or Operator: The person with the rights to drill and produce and to appropriate the oil or gas produced from either for such owner or operator or others.

Pad Area: The area associated with any oil or gas well that is either directly disturbed by the drilling or are subsequently affected by the operation of production facilities, excluding the access road. The pad size shall be measured from the edge of the disturbed area.

Permanent Equipment: Equipment located on-site for greater than six (6) months, effective one year after the drilling and completion of a well.

Pipeline: A conduit of pipe, especially one used for the conveyance of water, gas, or petroleum products.

Planning Commission: The Elbert County Planning Commission.

Pollution: The contamination or other degradation of the physical, chemical or biological properties of water, soil, or air, including, but not limited to: change in temperature, taste, color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other substance into water, soil, or air as will or is likely to create a nuisance or

render such water, soil, or air harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life or native flora.

Produced Water: Water that is extracted from the ground in the process of accessing and extracting gas or oil.

Recompletion: The Operator re-enters a well to enhance production or deepen the well to a new formation from that in which a well has previously been completed.

Residential: A property having an existing residence or platted subdivision lot.

Right-of-Way: A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or other special use.

Security Fencing: A six (6) foot chain link fence topped by three (3) strands of barbed wire, or the equivalent, with a gate that can be secured.

Setback: The distance between components of an Oil and Gas Facility and the lot or property line.

Site: Any lands, including the surface of a severed mineral estate, on which exploration for, or extraction and removal of oil or gas is authorized under a lease and is in compliance with State regulations.

Spacing: Acreage dedicated to each well producing from the same formation. Spacing regulations are established by the Colorado Oil & Gas Conservation Commission.

Storm Water Management Plan: A detailed analysis of how storm water on the site will be managed, including the system's design and how it will be constructed to meet applicable County and Colorado Department of Health and Environment requirements.

Surface Owner: The owner of the surface property on which the facility will be constructed.

Tank Battery: Containment tanks used for the storage of: water, used drilling fluids, waste mud, produced water, or oil.

Track Mat: A suitable stone pad, a minimum of seventy-five feet (75') in length, designed to allow for clean down prior to accessing onto County roads or State highways.

Transmission Line: A pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a transmission line by the U.S. Department of Transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended.

Water Transfer Station: A facility that receives produced water via pipeline or tanker trucks (surface transportation) from one or more well locations. This station may be used for water storage, water disposal, and water recycling.

Wellhead: The equipment attached to the casing of an oil or gas well above the surface of the ground.

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SECTION 26.6: APPENDICES

Appendix A: Elbert County Right to Enter form

Appendix B: Elbert County Oil & Gas Facilities Development Permit Application form

Appendix C: Notice of Application for Minor Oil & Gas Facility

Appendix D: Public Hearing Notice Form